

REMARKS

Claims 1-29 are pending in the present application. By the present amendment, claims 1-3, 6, 16-17, and 23-26 have been amended, and claims 4-5, 10-15, 20-22, and 27-29 have been cancelled, without prejudice or disclaimer. It is respectfully submitted that no new matter has been presented and no new issues have been raised by the present response.

The undersigned would like to thank the Examiner for his considerable time and assistance during the telephone discussion of June 5, 2007.

Claims 1-19 and 22-29 were rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Claims 1-5, 10-12, 14, 16, 20 and 22-29 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Application Publication No. 2001/0053991 to Bonabeau (hereinafter "Bonabeau"). Claims 6-9, 13, 15, 17-19, and 21 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Bonabeau in view of W.M.P. van der Aalst, "The Application of Petri Nets to Workflow Management," The Journal of Circuits, Systems, and Computers, pp. 1-53 (1998) (hereinafter "van der Aalst").

Rejections Under 35 U.S.C. § 101

The Office Action states that the steps recited in the independent claims of the present application do not provide for a tangible result. Applicant respectfully disagrees.

Amended independent claim 1 recites, inter alia, analyzing the business activity, determining at least one performance criterion, selecting at least one predefined business performance model, monitoring the business activity using the at least one selected predefined business model, and displaying performance data of the monitored business activity. It is respectfully submitted that the analyzing, determining, selecting, monitoring, and displaying steps described above and recited in amended independent claim 1 produce "useful, tangible, and concrete" results, as required by 35 U.S.C. § 101. Accordingly, amended independent claim 1 is believed to recite statutory subject matter. Amended independent claims 16-17 and 26 are believed to recite statutory subject matter for at least similar reasons.

Withdrawal of the rejections under 35 U.S.C. § 101 is respectfully requested.

Rejections Under 35 U.S.C. § 102

Independent claim 1, as amended, relates to a computer-implemented method for monitoring a performance of a business activity, comprising analyzing the business activity, determining at least one performance criterion applicable to the business activity, the at least one performance criterion being operable to validate that the business activity is in compliance with an expected behavior of the business activity, selecting at least one predefined business performance model from a plurality of predefined business performance models based upon the at least one determined performance criterion, monitoring the business activity using the at least one selected predefined business model, and displaying performance data of the monitored business activity.

As understood by Applicant, Bonabeau relates to methods and systems for generating new business models in an environment of existing business methods. The existing business methods are described with corresponding business models, the business models are simulated to determine their performances, one or more of the business models having optimal performance values are selected, and the selected business models are transformed to create new improved business methods. A space of possible business models may

be described in a modular fashion and evolutionary methods may be applied to generate improved business models.

It is respectfully submitted, however, that Bonabeau does not disclose or suggest "analyzing the business activity," "determining at least one performance criterion applicable to the business activity," and "selecting at least one predefined business performance model from a plurality of predefined business performance models based upon the at least one determined performance criterion," as recited, for instance, in independent claim 1.

Paragraph 19 of Bonabeau, for instance, states:

The methods and systems of the present invention may have various additional components. For example, they may include an analysis component that is useful to interpret and understand why a particular business model is successful or unsuccessful. Another optional component may be a method for detecting "correlated success" (strategic behavior), that is, business models that exhibit performance only when combined with other business models. ... A further optional component may test business methods for robustness, for example, against perturbations to the ecosystem environment of a given business model.

(emphasis added).

As understood by Applicant, the cited section of Bonabeau reproduced above relates to components applicable to business models. The components may be used to analyze

successfulness of a business model, identify correlated successes of a business model, and robustness against perturbations to the ecosystem of a business model (see Bonabeau, ¶ 19).

The business models of Bonabeau are constructed from combinations of interchangeable building blocks, whereby the interchangeable building blocks describe an elementary businesses directed to the business problem at hand (see *id.*, ¶¶ 10-11).

In contrast, the systems and methods of the present application are directed to analyzing a business activity, then selecting at least one predefined business performance model from a plurality of predefined business performance models for monitoring the performance of that analyzed business activity, as recited in independent claim 1.

For instance, in an exemplary embodiment of the present application, a business process A may be evaluated, and a business performance model may be selected based on one or more criteria of the business process A (see specification, p. 8, lns. 12-22; Fig. 1). The business process may also include a plurality of integrated business processes, each of which may be evaluated, for example, as illustrated in Fig. 2 (see *id.*, p. 9, ln. 15 to p. 10, ln. 17; Fig. 2).

It is respectfully submitted that there is no disclosure or suggestion in Bonabeau that the business method analysis components relate to "analyzing the business activity," as recited in independent claims 1, 16-17, and 26, as amended.

Additionally, it is respectfully submitted that Bonabeau does not disclose or suggest a plurality of predefined business performance models. Bonabeau relates to the generation and improvement of new business models. The present application relates to analysis of a business activity and to the selection of at least one predefined business performance model from a plurality of such models for monitoring the performance of the business activity.

In the present application, depending on the business activity and what performance criteria are important to that business activity, a particular predefined business performance model is selected and applied to that business activity, thereby monitoring that business activity against some specific performance criteria.

Furthermore, the simulated business models of Bonabeau do not disclose or suggest monitoring a business activity, as recited in amended independent claims 1, 16-17, and 26.

Furthermore, it is respectfully submitted that Bonabeau does not disclose or suggest analyzing an existing business

activity. In an exemplary embodiment, the present application relates to monitoring and managing the performance of business activities performed by an individual or company. The business activity may be analyzed with respect to performance criteria which may include any information operable for validating that the business activity is performing in compliance with expectations. The one or more predefined business performance models may be utilized for monitoring the performance criteria and therefore may be operable for monitoring and managing the business activity as it is performed (see id., p. 5, ln. 22 to p. 7, ln. 7).

It is respectfully submitted that Bonabeau, in contrast, applies to analysis of models, and not to monitoring of performance of actual, existing business activities.

Accordingly, for at least the reasons stated above, it is respectfully submitted that amended independent claims 1, 16-17, and 26 are patentable over the cited reference. Claims 2-3 and 6-9 depend from amended independent claim 1; claims 23-25 depend from amended independent claim 16; and claims 18-19 depend from amended independent claim 17, and are believed to be patentable over the cited reference at

least by virtue of their dependency from patentable independent claims.

Withdrawal of the rejections under 35 U.S.C. § 102 is respectfully requested.

Rejections Under 35 U.S.C. § 103

Regarding the rejection of claims 6-9, 13, 15, 17-19, and 21, the Office Action states that Bonabeau does not disclose or suggest at least a plurality of predefined sub-processes included within each of the first, second, and third business performance models (see Office Action, p. 14, lns. 8-9). The Office Action also states that Bonabeau does not disclose or suggest that the business activity is a business process (see *id.*, p. 18, ln. 1). van der Aalst is cited as showing the missing elements.

van der Aalst, as understood by Applicant, relates to the use of workflow management for controlling, optimizing, and supporting business processes through explicit representation of business process logic which allows for computerized support. Petri nets may be used for modeling and analyzing processes within workflow management, as a design language for the specification of complex workflows, or as powerful analysis techniques for the verification of correctness of workflow procedures.

It is respectfully submitted, however, that neither van der Aalst nor Bonabeau, alone or in combination, disclose or suggest each of the elements of the independent claims, including:

- determining at least one performance criterion applicable to the business activity and selecting at least one predefined business performance model from a plurality of predefined business performance models based upon the determined performance criterion, as recited in amended independent claim 1;
- developing a plurality of business performance models based on at least one performance criterion, determining at least one performance criterion applicable to the business activity, selecting at least one business performance model from the plurality of developed business performance models for monitoring a performance of the business activity, as recited in amended independent claim 16; and
- a server operable to store at least one predefined business performance model and to generate the performance data using the predefined business

performance model, the server further operable to analyze the business activity and select at least one predefined business performance model from a plurality of predefined business performance models for monitoring the performance of the business activity, each predefined business performance model associated with at least one performance criteria, as recited in independent claim 17.

Accordingly, given that the references, alone or in combination, fail to disclose at least the above-described elements of the independent claims, it is submitted that amended independent claims 1, 16 and 17 are patentable over the cited references. That is, a claim cannot be obvious over a combination of references when the references fail to disclose a claimed element.

Claims 2-3 and 6-9 depend from amended independent claim 1; claims 23-25 depend from amended independent claim 16; and claims 18-19 depend from amended independent claim 17, and are believed to be patentable over the cited references at least by virtue of their dependency from patentable independent claims.

Furthermore, it is respectfully submitted that there is no suggestion or motivation in the cited references to

combine the elements in the manner suggested by the Office Action.

Withdrawal of the rejections under 35 U.S.C. § 103 is respectfully requested.

This communication is believed to be fully responsive to the Office Action and the claims are believed to be patentable over the cited references.

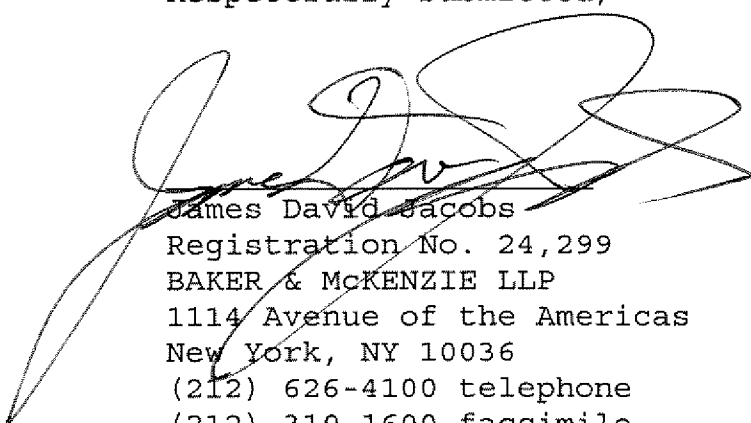
If a telephone interview would be of assistance in advancing prosecution of the present application, the Examiner is respectfully invited to contact the undersigned at the telephone number provided below.

The Commissioner is hereby authorized to charge any fees associated with the present response to our deposit account number 02-0393.

Favorable reconsideration is earnestly solicited.

Respectfully submitted,

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